

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**ANTHONY PEOPLES**

**PETITIONER**

**VS.**

**CASE NO.: 3:14CV00185 DPM/BD**

**ARKANSAS, STATE OF**

**RESPONDENT**

**RECOMMENDED DISPOSITION**

**I. Procedures for Filing Objections**

This Recommended Disposition (“Recommendation”) has been sent to United States District Court Judge D.P. Marshall Jr. Any party may file written objections to this Recommendation.

Objections must be specific and must include the factual or legal basis for the objection. An objection to a factual finding must identify the finding of fact believed to be wrong and describe the evidence that supports that belief.

An original and one copy of your objections must be received in the office of the United States District Court Clerk within fourteen (14) days of this Recommendation. A copy will be furnished to the opposing party.

If no objections are filed, Judge Marshall can adopt this Recommendation without independently reviewing all of the evidence in the record. By not objecting, you may also waive any right to appeal questions of fact.

Mail objections to:

Clerk, United States District Court  
Eastern District of Arkansas  
600 West Capitol Avenue, Suite A149  
Little Rock, AR 72201-3325

## **II. Discussion**

Petitioner Anthony Peoples filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. (Docket entry #1) He did not file a motion to proceed *in forma pauperis* (“IFP”), however, or pay the \$5.00 filing fee to the Court. In an order dated August 20, 2014, the Court ordered Mr. Peoples to use one of these options to satisfy the filing within thirty days. (#2) The Clerk mailed a copy of the Order to Mr. Peoples, but it was returned, marked “undeliverable,” on August 27, 2014. (#3, #4) The Clerk mailed the Order to Mr. Peoples again on August 28, 2014.

The August 20, 2014 Order warned Mr. Peoples that if he failed to respond to the Order by addressing the unpaid filing fee, his case could be dismissed. As of the date of this order, Mr. Peoples has not complied with the Court’s order to file a motion to proceed IFP pay the filing fee. Accordingly, his petition should be dismissed without prejudice.

## **III. Certificate of Appealability**

When entering a final order adverse to a petitioner, the Court must issue or deny a certificate of appealability. Rule 11 of the Rules Governing Section 2254 Cases in the United States District Court. The Court can issue a certificate of appealability only if Mr.

Peoples has made a substantial showing that he was denied a constitutional right. 28 U.S.C. § 2253(c)(1)-(2). In this case, Mr. Peoples has not provided a basis for issuing a certificate of appealability.

**IV. Conclusion**

For the reasons set forth above, the Court recommends that Mr. Peoples's petition be dismissed, without prejudice, under Local Rule 5.5(c)(2), for failure to comply with the Court's Order of August 20, 2014. The Court further recommends that no certificate of appealability be issued.

DATED this 29th day of September, 2014.

A handwritten signature in black ink, appearing to read "B. J. [unclear]", is written above a horizontal line.

UNITED STATES MAGISTRATE JUDGE